

**FEDERAL TRADE COMMISSION  
16 CFR Part 303**

**Rules and Regulations  
Under the Textile Fiber Products Identification Act**

**AGENCY:** Federal Trade Commission.

**ACTION:** Request for public comment.

**SUMMARY:** The Federal Trade Commission (“Commission”), pursuant to a petition filed by Mohawk Industries, Inc. (“Mohawk”), E. I. du Pont de Nemours and Company (“DuPont”), and PTT Poly Canada (“PTT Canada”) (all hereinafter “Petitioners”) solicits comments on amending Rule 7(c) of the Rules and Regulations Under the Textile Fiber Products Identification Act (“Textile Rules”) to establish a new generic fiber subclass name and definition within the existing definition of “polyester” for a specifically proposed subclass of polyester fibers made from poly(trimethylene terephthalate) (“PTT”). Petitioners state that PTT fiber, while having the same general chemical composition of polyester, has distinctive features of durability, resilience, softness, and ability to stretch with recovery that make PTT fiber significantly more suitable than conventional polyester (“PET”) for carpet and apparel. This notice also seeks comments on whether to amend Rule 7(c) to broaden or clarify its definition of polyester to describe more accurately the molecular structure and physical characteristics of PTT and any similar fibers, in the event that the petition does not warrant the establishment of a new subclass for PTT.

**DATE:** Comments will be accepted until November 12, 2007.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to “16 CFR Part 303 – Textile Rule 8, Mohawk, DuPont, and PTT Canada Comment,

Matter No. P074201” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex K), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material, however, must be filed in paper form, must be clearly labeled “Confidential,” and must comply with Commission Rule 4.9(c).<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <http://secure.commentworks.com/ftc-Mohawk, DuPont and PTT Canada Comment>. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You may also visit <http://www.regulations.gov> to read this Notice, and may file an electronic comment through that website. The Commission will consider all comments that [www.regulations.gov](http://www.regulations.gov) forwards to it.

\_\_\_\_\_The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent

---

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

practicable, at [http:// www.ftc.gov](http://www.ftc.gov). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** Janice Podoll Frankle, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC, 20580; (202) 326-3022.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

A. Statutory and Regulatory Framework

The Textile Fiber Products Identification Act (“Textile Act”) requires certain disclosures in textile labeling and advertising, and authorizes the Commission to promulgate rules needed to enforce the Textile Act and establish generic fiber names. Section 4(b)(1) of the Textile Act states that a textile product is misbranded unless it is labeled to show, among other elements, the percentages, by weight, of the constituent fibers in the product, designated by their generic names and in order of predominance by weight. 15 U.S.C. 70b(b)(1). Section 4(c) provides that the same information required by section 4(b)(1) (except the percentages) must appear in written advertisements if any disclosure or implication of fiber content is made about a covered textile product. 15 U.S.C. 70b(c). Section 7(c) directs the Commission to promulgate such rules, including the establishment of generic names of manufactured fibers, as are necessary to enforce the Textile Act’s directives. 15 U.S.C. 70e(c).

The Commission's Textile Rules address the Textile Act's fiber content disclosure requirements, including the establishment of generic fiber names. Rule 6 (16 CFR 303.6) requires manufacturers to use the generic names of the fibers contained in their textile products in making fiber content disclosures. Rule 7 of the Textile Rules (16 CFR 303.7) sets forth the generic names and definitions that the Commission has established for manufactured fibers. Rule 8 (16 CFR 303.8) describes the procedures for establishing new generic names.

#### B. Procedural History

On February 21, 2006, Petitioners petitioned the Commission for the establishment of a new generic subclass within the existing polyester category for fibers made from PTT<sup>2</sup> and submitted a revised petition ("Petition") on September 7, 2006.<sup>3</sup> After an initial analysis with the assistance of a textile expert, tentatively and without the benefit of public comment, the Commission agreed with Petitioners that PTT fiber technically falls within Rule 7(c)'s definition of "polyester"<sup>4</sup> (16 CFR 303.7(c)). The Commission further determined that Petitioners' petition

---

<sup>2</sup> Mohawk sells a line of carpets manufactured from PTT under the trademark SmartStrand®. DuPont markets PTT under the trademark Sorona®. PTT Poly Canada markets PTT under the trademark Corterra® Polymers.

<sup>3</sup> The revised petition, which restates and supplements the contents of the February 21, 2006 petition is available in electronic form at: <http://www.ftc.gov/os/statutes/textile/info/PTTGenAppRev8-30-06.pdf>. The revised petition, as well as any comments filed in this proceeding, will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and the Commission's Rules of Practice, 16 CFR 4.11, at the Consumer Response Center, Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC. Any comments that are filed will be found under the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 CFR Part 303, Matter No. P074201, "Mohawk, DuPont, and PTT Canada Generic Fiber Petition Rulemaking." The comments also may be viewed on the Commission's website at [www.ftc.gov](http://www.ftc.gov).

<sup>4</sup> Rule 7(c) defines "polyester" as "a manufactured fiber in which the fiber-  
(continued...)

for a new subclass name and definition merits further consideration. Accordingly, on April 18, 2006, the Commission assigned Petitioners the designation “PTT001” for temporary use in identifying PTT fiber pending a final determination as to the merits of their petition.

## **II. Summary of the Petition**

Petitioners state that PTT fiber satisfies the Commission’s standard for establishing a generic subclass because PTT has the same general chemical composition as the Commission’s established polyester generic fiber category, but also has distinctive properties of importance to the general public as a result of its unique chemistry, molecular design, and fiber structure. In order to differentiate PTT from PET, Petitioners submitted tests showing that PTT fiber is superior to PET fiber with respect to durability, resilience, softness, and ability to stretch with recovery. According to Petitioners, these features make PTT fiber significantly more suitable than PET for carpet and apparel applications.

Regarding carpet applications, Petitioners state that, prior to the use of PTT in residential carpet, the principal types of man-made fiber used to manufacture carpet were nylon, PET, and polypropylene. Petitioners observe that carpet made from PET is less highly regarded than nylon carpet because PET lacks the durability and resilience of nylon. Petitioners further state that, with the introduction of carpet made from PTT, consumers have a choice of a fiber that has stain

---

4

(...continued)

forming substance is any long chain synthetic polymer composed of at least 85% by weight of an ester of a substituted aromatic carboxylic acid, including but not restricted to substituted terephthalate units, and para substituted hydroxy-benzoate units.”

resistance properties superior to those of nylon, along with durability, resilience, and softness that matches that of the highest quality nylon residential carpet.<sup>5</sup>

Petitioners contend that apparel made from PTT is superior to apparel made from PET with respect to two attributes important to consumers. Specifically, Petitioners state that DuPont conducted a survey to determine the attributes of fabrics of greatest importance to consumers. From a list of eight attributes,<sup>6</sup> consumers identified ease of care, softness, and ability to stretch with recovery as the most important attributes. Petitioners state that PTT fiber is superior to PET fiber with regard to two of the three attributes, softness and ability to stretch with recovery.

### **III. Petitioners' Testing**

Petitioners submitted testing to illustrate the improved performance of PTT fibers over PET fibers with respect to durability/resilience and softness for residential carpet, and softness and ability to stretch with recovery for apparel.<sup>7</sup>

#### **A. Carpet Durability/Resilience**

Petitioners submitted three tests that purportedly measured carpet durability and resilience. The first, the Hexapod Wear Test (three trials were conducted), which simulates carpet wear through a mechanical device, was conducted on three identical constructions of nylon, PET, and PTT fiber carpet samples. According to Petitioners, all three of the trials

---

<sup>5</sup> Petitioners did not submit testing to support their statement that PTT has stain resistance properties superior to nylon.

<sup>6</sup> The eight attributes were: ability to stretch, softness (also referred to as “drape”), ability to dye easily, ease of care, composition from renewable resources, stain resistance, resilience, and printability.

<sup>7</sup> See pages 13-19 of the Petition.

performed on these materials<sup>8</sup> revealed that both nylon and PTT fibers wear significantly better than PET. The second test measured wear after 20, 40, and 60 thousand cycles of human footsteps on the carpet (“Walk Test”). Consistent with the Hexapod wear results, Petitioners stated that both nylon and PTT carpet performed much better than PET carpet. The third test examined the durability and resilience of PTT and PET carpets using the Hexapod Wear Test and the Walk Test. Table 4 of the Petition indicates that PTT outperformed PET on both tests.<sup>9</sup> These tests did not find any significant difference between PTT and nylon.

B. Carpet and Apparel Softness

Petitioners submitted a test measuring softness as well. According to the Petition, fabric softness can be measured by the force or stress required to deflect or strain the fiber a given distance. Thus, in order to test carpet softness, Petitioners tested the stress versus the strain performance of PET and PTT fibers, as compared to nylon, and also compared the force required to deflect these yarns a given distance. This second measure was performed by placing the yarns between two clamps and depressing the yarns a particular distance. Figure 16 of the Petition indicates that PTT is softer than nylon and PET because it takes less force to deflect the PTT fiber.<sup>10</sup>

---

<sup>8</sup> Tests were performed after 12, 24, and 36 thousand wear cycles. According to the Petition, the Hexapod Wear Test is an appearance retention test endorsed by the Carpet and Rug Institute. The test stimulates the most aggressive parts of a walking action using an accelerated process.

<sup>9</sup> See page 18 of the Petition.

<sup>10</sup> See pages 20-21 of the Petition.

### C. Fabric Stretch with Recovery

Petitioners also conducted two tests comparing the stretch and recovery properties of fabrics knitted or woven from PTT and PET. In the first test, knitted fabrics, with identical constructions and made from PTT and PET yarns, were dyed, heat-set, and softened. Figure 17 of the Petition indicates that PTT has better recovery<sup>11</sup> and a lower set<sup>12</sup> than PET.<sup>13</sup> In the second test, PTT woven fabric has more stretch than PET.<sup>14</sup>

## IV. **Additional Information**

### A. Proposed Subclass Definition

Petitioners propose the following definition for a new subclass of polyester at 16 CFR 303.7(c):

“[a] manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of an ester of a substituted aromatic carboxylic acid, including but not restricted to substituted terephthalate units, [formula omitted] and para substituted hydroxy-benzoate units, [formula omitted] and where specifically the glycol used to form the ester consists of at least ninety mole percent 1,3-propanediol.”

### B. Extent of PTT Fiber Commercialization

Petitioners state that PTT is currently being used in both carpet and apparel applications and has been commercialized by DuPont and PTT Canada. Also, Petitioners observe that carpet fiber spun from PTT has been commercialized by Mohawk (including Lees Carpets), Shaw

---

<sup>11</sup> “Recovery” refers to the extent to which the fabric returns to its original shape after being stretched.

<sup>12</sup> “Set” refers to the extent to which the fabric remains stretched when it does not recover completely.

<sup>13</sup> See page 22 of the Petition.

<sup>14</sup> See page 23 of the Petition.



Industries, and CAF Extrusions. The Petition additionally states that apparel fibers spun from PTT have been commercialized by more than 20 different mills.<sup>15</sup>

### C. Recycling Properties

Petitioners observe that while recycling of man-made polymers currently is of secondary importance to U.S. consumers, to the extent that PET and PTT are included in the same polymer pool for recycling (because they are currently both classified as “polyester”), mixing of the two polyesters could have adverse effects on the melt temperature and tenacity properties of the recycled polymer. Petitioners state that if the two polymers are mixed during processing, different safe handling procedures will be required and thus suggest that the two polymers should be separated during recycling. Accordingly, Petitioners argue that use of a different generic name would facilitate the separation of polymers during recycling.<sup>16</sup>

## V. **Invitation to Comment**

The Commission is soliciting comment on whether the petition meets the standard for granting applications for new generic fiber subclass names, and thus, whether it should amend Rule 7(c)’s polyester definition by creating a separate subclass name and definition for PTT and other similar qualifying fibers within the polyester category. The Commission articulated a standard for establishing a new generic fiber “subclass” in the “lyocell” proceeding (16 CFR 303.7(d)). There, the Commission noted that:

Where appropriate, in considering applications for new generic names for fibers that are of the same general chemical composition as those for which a generic name already has

---

<sup>15</sup> See page 24 of the Petition for PTT apparel fiber mills grouped by apparel type.

<sup>16</sup> Petitioners also observe that the byproducts of PTT and PET have different properties and thus different Occupational Safety and Health Administration (“OSHA”) exposure limits; accordingly, recycling firms need to be aware of these differences. Thus, Petitioners argue that a new generic name for PTT could help such firms comply with OSHA regulations.

been established, rather than of a chemical composition that is radically different, but that have distinctive properties of importance to the general public as a result of a new method of manufacture or their substantially differentiated physical characteristics, such as their fiber structure, the Commission may allow such fiber to be designated in required information disclosures by either its generic name or, alternatively, by its “subclass” name. The Commission will consider this disposition when the distinctive feature or features of the subclass fiber make it suitable for uses for which other fibers under the established generic name would not be suited, or would be significantly less well suited.<sup>17</sup>

Therefore, a new generic fiber subclass for PTT may be appropriate if it: (1) has the same general chemical composition as an established generic fiber category, and (2) has distinctive properties of importance to the general public as a result of a new method of manufacture or substantially differentiated physical characteristics, such as fiber structure.

The Commission also seeks comment on two alternatives, if the Commission were to find that the petition does not meet the above standard: (1) amending Rule 7(c) to address PTT without establishing a subclass (*e.g.*, by broadening or clarifying the definition of polyester); or (2) retaining Rule 7(c) in its current form. In addition to soliciting comments on the merits of Petitioners’ proposed amendment to Rule 7(c)’s definition of polyester, the Commission solicits comments on Petitioners’ suggested names for the proposed new subclass. Petitioners propose, in order of preference, the following names: “triexta,” “resisoft,” and “durares.”<sup>18</sup>

Before deciding whether to amend Rule 7, the Commission will consider any comments submitted to the Secretary of the Commission within the above-mentioned comment period. The full text of the Petition can be found on the Commission’s website at:

<http://www.ftc.gov/os/statutes/textilejump.htm>.

---

<sup>17</sup> 60 FR 62352, 62353 (Dec. 6, 1995).

<sup>18</sup> Petitioners state that they conducted word searches for each of the proposed generic subclass names and found no confusing similar use of these names.

## **VI. Communications by Outside Parties to Commissioners or Their Advisors**

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(5).

## **VII. Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to an initial regulatory analysis (5 U.S.C. 603-605) do not apply to this proposal because the Commission believes that neither of the amendments under consideration, if promulgated, will affect small entities. The Commission has tentatively reached this conclusion with respect to the proposed alternative amendments because neither would impose additional obligations, penalties, or costs. The alternative amendments simply would: (1) allow covered companies to use a new generic fiber subclass name and definition for polyester, or (2) broaden or clarify the definition of polyester to describe more accurately the molecular structure of polyester. Likewise, the alternative amendments impose no additional labeling requirements. Accordingly, based on available information, the Commission certifies, pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), that neither of the proposed amendments, if promulgated, would affect small entities. This document serves as notice to the Small Business Administration of the agency's certification of no effect.

To ensure that no substantial economic impact is being overlooked, however, the Commission requests public comment on the effect of the proposed alternative amendments on costs, profits, and competitiveness of, and employment in, small entities. After receiving public comment, the Commission will decide whether preparation of a final regulatory flexibility analysis is warranted. Moreover, while the Commission, as explained above, concludes that it is not required to prepare an initial regulatory flexibility analysis for this matter, the Commission

nonetheless has prepared the following such analysis to facilitate public comment on the impact, if any, of the proposed alternative amendments on small entities:

A. Description of the Reasons that Action by the Agency Is Being Considered

The Commission, pursuant to Petitioners' petition, solicits comments on whether to (1) amend Rule 7(c) of the Textile Rules to establish a new generic fiber subclass name and definition to the existing definition of "polyester" for a specifically proposed subclass of polyester fibers made from PTT; or (2) amend Rule 7(c) to broaden or clarify the definition of "polyester" to describe more accurately the allegedly unique molecular structure and physical characteristics of polyester fibers made from PTT and any similar fibers; or (3) retain Rule 7(c)'s definition of polyester.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Alternative Amendments

As explained above, the Commission's Textile Rules address the Textile Act's requirements for disclosure of fiber content in textile labeling, including the establishment of generic fiber names. Rule 6 of the Textile Rules (16 CFR 303.6) requires manufacturers to use the generic names of the fibers contained in their textile products in making fiber content disclosures on labels. Rule 7 of the Textile Rules (16 CFR 303.7) sets forth the generic names and definitions that the Commission has established for manufactured fibers. Rule 8 (16 CFR 303.8) describes the procedures for establishing new generic names. In accordance with Rule 8, Petitioners have petitioned the Commission to amend Rule 7(c)'s definition of "polyester" by creating a separate subcategory and definition for PTT. The Commission seeks comment on this proposal and the alternatives of amending Rule 7(c) to broaden or clarify the definition of "polyester" or not amending the Rule.

C. Description of and, Where Feasible, Estimate of the Number of Small Entities to Which the Proposed Alternative Amendments Will Apply

The Commission believes that the proposed alternative amendments would not affect small entities because neither the Petitioners nor any other entity affected by these proposed alternative amendments would be a “small entity” under the Small Business Administration Size Standards. Although there may be some “downstream” textile manufacturers that could be “small entities” whose labeling may change as a result of these proposed alternative amendments, the amendments would impose no new or different compliance obligations, penalties, or costs on them. The Commission, however, invites comment and information on this issue.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Textile Rules impose disclosure requirements, and the proposed alternative amendments would not impose any additional obligations. One of the proposed alternative amendments simply would allow covered companies to use a new generic fiber subclass name and definition as an alternative to an existing generic name. The other proposed alternative amendment would simply broaden or clarify the definition of polyester. Neither of the proposed amendments would impose any additional labeling or advertising requirements.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed alternative amendments.

F. Significant Alternatives to the Proposed Amendments

The provisions of the Textile Rules directly reflect the requirements of the Textile Act and there are no other alternatives to the proposed alternative amendments, which reflect the nature of the Petitioners’ fiber product.

## **VIII. Paperwork Reduction Act**

Pursuant to the Paperwork Reduction Act (“PRA”), 44 U.S.C. 3501-3520, the Office of Management and Budget (“OMB”) approved the information collection requirements contained in the Textile Rules and assigned OMB Control Number 3084-0101.<sup>19</sup> The proposed rule amendments, as discussed above, would broaden the definition of polyester to describe more accurately the allegedly unique molecular structure and physical characteristics of PTT or, alternatively, allow covered companies to use a new generic fiber subclass name and definition for polyester. Neither proposal would change the existing paperwork burden on covered companies. Accordingly, neither proposed alternative amendment would impose any new or affect any existing reporting, recordkeeping, or third-party disclosure requirements that are subject to review by OMB under the PRA.

### **List of Subjects in 16 CFR Part 303**

Labeling, Textile, Trade Practices.

Authority: Sec. 7(c) of the Textile Fiber Products Identification Act (15 U.S.C. 70e(c)).

By direction of the Commission.

Donald S. Clark  
Secretary

---

<sup>19</sup> The OMB clearance for the Textile Rules expires on February 28, 2009.